

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MONTY C. PEPPER

plaintiff

v

THOMAS CARROLL

BAMBI THOMAS

THOMAS SEACORD

JAMES GARDELS

defendants

C.A.No. 05-084-JJF

PLAINTIFF,S REPLY TO THE

DEFENDANTS OPPOSITION TO PLAINTIFFS MOTION TO AMEND COMPLAINT (DI2)

.....
NOW COMES PLAINTIFF Monty Pepper to reply to defendants opposition
motion to Plaintiff s MOTION TO AMEND (DI39)

PLAINTIFF on Febuary 15,2005 did file suit (DI2) on the above
captioned defendants Thomas Carroll ,Bambi Thomas,Thomas Seacord and
James Gardels

PLAINTIFF filed a amended complaint on JUNE1,2005 (DI7)

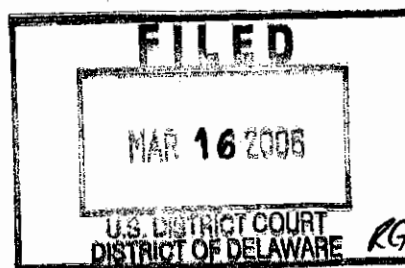
PLAINTIFF filed a second amended complaint on SEPTEMBER13,2005
(DI16) motion was granted on Oct 3,2005 (DI17)

PLAINTIFF filed a third amended complaint on FEBRUARY 17,2005
(DI39) in and under FED.RULES OFCIV.PROCD.15

THIS IS A REPLY to Defend the PLAINTIFFs position and the
fallowing Memorandum of fact

DATE March 14 2006


MONTY C PEPPER



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Defendants argue That Plaintiff's amendment To his complaint is untimely and made in bad faith and futile . Plaintiff disagrees The amendment falls within Federal Rules of Civil Procedure 15 where a Judgment on summary Judgment has not been made .

furthermore The amended complaint is in connection and a on going medical issue which was presented in The original complaint (D12) Thus fall with in Fed Rules of Civ. Proc. 15

Plaintiff disagrees To Defendants argument That it was presented in bad faith and futile. To The contrary The purpose was To save The court Time and money in haveing To deal with a seprate suite when because The facts in The amended complaint concern The medical problems That were egnored and were caused by The behaviours and conditions assoiated with The Defendants .

Where The unnecessary and wanton infliction of pain and The evidence That prison officials "ie Defendant Carroll" knew That The Plaintiff

was in pain as well as The other Defendants (Thomas, Seacord, Gardels,) were aware and deprived The Plaintiff of a basic human need.

Defendants argue The filing of The amended complaint was a maneuver by The Plaintiff and as They describe To be disingenuous

Defendants argue That The Plaintiff was concerned when faced with Defendants motion To dismiss .

first Plaintiff has "no" concern To Defendants motion To dismiss / summary judgement Plaintiff feels There motion was insufficient To say The least with inaccurate evidence as well as The Defendants ("Thomas and Seacord") committing perjury in submitted affidavits . Then attempting To correct Their false statements in a ansure To Plaintiffs reply To Defendants motion where Plaintiffs supplied records and documents To show grounds To go To Trial and over come

Defendants Motion To dismiss / summary Judgment as well as stated claims upon which relief can be granted

As To Defendants argument of bad faith The defendant knows That Plaintiff must exhaust all available remedy at his disposal

This is why The claim was not added earlier where like The Plaintiff other claims where all available remedy was exhausted and even went beyond what was available here To The Medical needs a basic human need was grievanced over and over with out remedy even after seeing a doctor / practitioner nurse no viable action was Taken For The pain , cough , or Tumor / Lump on Plaintiff's spine ! That is unexcuseable and Plaintiff considers all remedy has been exhausted , and is not in bad faith if fact

Plaintiff has afforded more Time Than he should have considering The constant cough and The Tumor / Lump could verry well be a sign of cancer and in fact could be fatal and as such

has caused The Plaintiff undue pain as well as constant mental anguish agonizing over his condition, as well as his son and family concern and effect on them. (Plaintiff is a single father of his 10 year old son)

Defendants concern with a undue delay can have ample time to reply as the court deems fair in the name of justice. The delay to the Plaintiff however has caused much more harm than simple paper work

Defendants lastly argue that Plaintiff has had many sick calls and seen by a doctor. Plaintiff has been seen on a occasion or two without results other than Motren.

Motren will not stop back pain stop a cough that has gone on now for over a year now will it cure or detect cancer where the lump on the plaintiff's spine should have no question to what should be done. a simple lay person would know that it should be checked

As to the evidence that the Defendants supply it is very suspect as to the truthfulness where the medical providers were in fact

falsefied and The supplied evidence shows signs of This where statment in one is false and others are unsigned. This medical provider as well as The current medical provider are being investigated for abuses such as mine and records

Because of This fact The Defendant Carroll was aware of This problem and of other problems like lack of fair falsifying records and no help for medical needs and as so he was responsibal for stoping abuses and conditions in DCC smyrna and acted with deliberate indifference To The issue and as such is accountable and responsible for the "lack of fair and The malicious wanton infliction of pain by not only Defendants (Thomas Seacord Gardels) but also The medical provider under his controle.

There for for The above reasons The Plaintiff ask The court To amend The medical complaint (D1²) To (D12) as requested not only in The name of Justice but also for The intrest of The Court

To save Time and money by dererTing a second suiT which would have To include The abuses included in The orginal complainT (DI 2) .

where also The damage moniTary etaimē would also be included in The original claim (DI 2) and involves Two different medical providers That were under The controle of (Defendant Carroll)

" IE The blank documents in The amended claim as evidance are impression copyes and There are more available "



monty C Pepper
Del Correctiona Center
1181 Paddock Rd
Smyrna Del 19977

Further more recent legislation has required that before a medical claim can be found unwarranted or frivolous the court shall appoint outside medical experts to investigate the medical condition of the Plaintiff where one cannot count on the prison medical.

As to this point Plaintiff supplies the court with evidence in exhibits ()

These are stories are a few of about 30 or 40 other stories and holds the honesty of officials in Delaware Correctional Center into question.

Plaintiff therefore request the court to allow the amended medical complaint to complete the original complaint (DI 2) in the interest of justice and the interest of the court.

march 2006



Monty Pepper

D.C.C.

1181 Paddock Rd
Smyrna Del 19977

Prisons: Group wants state to hold public hearing

FROM PAGE B1

"Possibly criminality," Bullock said. "There is the moral and political leadership from our governor, her administration and past administrations? This is not just a protest. It's a protest with a plan."

No response from governor

Minner did not respond to the protesters, their plan or to calls for comment from The News Journal. Delaware Department of Correction Commissioner Stan Taylor had not seen the plan and had no comment, said spokeswoman Beth Welch.

"How do we expect the inmates to do the right thing when the people in charge of them are doing the wrong thing?" Wilmington City Councilwoman Hanifa Shabazz said before the protesters drove to Dover.

Monday's protest march was organized after a six-month investigation by The News Journal highlighted AIDS-related inmate deaths and suicides over the past four years; allegations by inmates of poor medical treatment for cancer, meningitis and hepatitis; and a no-bid \$2.9 million contract awarded this year by St. Louis-based Correctional Medical Services to manage health care in the state's prisons.

"My husband is dead because they put him in a cell with a bedsheet," said Karen Barkes, whose husband, Christopher, was sent to Gander Hill for a probation violation. Upon admission, he disclosed previous suicide attempts and history of mental illness, according to be prison's screening form. Despite his admissions, prison staffers placed him in a cell, alone, according to the form, which was reviewed by The News Journal. He hanged himself within hours.

"There are two children who do not have their father anymore, because the prison system failed," Karen Barkes said. "The state knows what's going on."



THE 10-POINT PLAN

The coalition's plan for prison reform:

1. Provide disease screening of inmates.
2. Mandatory testing of inmates for hepatitis and HIV.
3. Require bidding for all medical service contracts.
4. Switch to a "cost-plus" contract for medical services.
5. Establish inmate grievance procedure regarding their medical care so someone other than the provider reviews the grievances.
6. Establish independent oversight of medical service provider.
7. Maintain accurate records of AIDS/HIV in state correction facilities.
8. Reduce the suicide rates
9. Support an independent commission to investigate prison medical services, to include:
 - Inhumane treatment
 - Lack of proper medical care
 - Understaffing and forced overtime by correction officers.
 - Investigate incidents of rape
10. Address mental health care issues.

53-year-old inmate dies

A 53-year-old inmate, serving a five-year prison sentence at Young Correctional Institution (also known as Gander Hill), died Sunday while at St. Francis Hospital. Cornelius Harley, of Wilmington, became the 91st inmate to die in the last five years while serving time at a Delaware prison. Harley was sentenced to prison November 2003 after being convicted on second-degree attempted robbery.

"I said prayers with him on Saturday," said Dwight Davis.



Exhibit 1

A

This was not an isolated incident."

Seeking help and answers

On Friday, a different coalition of 30 churches, social service organizations and the American Civil Liberties Union of Delaware sent letters to Minner and the General Assembly urging them to immediately send emergency medical teams into Delaware prisons to determine whether inmates are receiving appropriate medical care.

Meanwhile, four lawmakers have asked for independent investigations: House Majority Leader Wayne A. Smith, R-Clair Manor; Rep. Hazel D. Plant, D-Wilmington Central; Sen. Margaret Rose Henry, D-Wilmington East; and Sen. Charles L. Copeland, R-West Farms.



Wilmington Councilman Mike Brown

Plant and Copeland participated in Monday's march on Minner's home. The protest was organized by Bullock, Plant, Copeland and New Castle County Councilman Penrose Hollins, D-4th District.

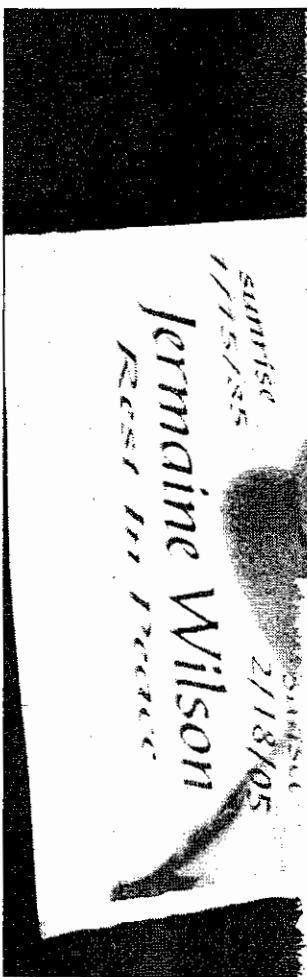
"Just because they're criminals doesn't mean they're not human," Wilmington City Councilman Mike Brown said.

Many of the protesters carried handmade signs: "Human rights for the incarcerated," "Governor where are you," "Justice now," "The system is sick," "Does Delaware care" and "FBI help us."

At times, the event took on the spirit of a religious revival.

"Let justice roll down like water, righteousness like a mighty stream," Bullock said, quoting a passage from the Book of Amos.

Imam Umar Hassan El said problems in Delaware's prisons demand attention. "We are not in a Third World nation,"



The News Journal/BOB HERBERT

Susie Wilson, whose son Jermaine was found hanging from a bedsheet in the Delaware Correctional Center on Feb. 18, prays Tuesday during a protest in Dover.

ONLINE

Read the entire series, watch video interviews, read autopsy reports and join in an online discussion at www.delawareonline.com.

Hassan El said. "The late Howard R. Young, the man for whom Gander Hill prison was renamed, said we must rehabilitate the offenders. That's what we must do."

Bullock and other speakers called for public hearings to investigate the system. "If hearings are not held here, I vow I will hold hearings in the parking lot of Legislative Hall, to see that the people's voice is heard," Bullock said. "If we are going to reform the system, we need to reform from the top to the bottom."

Plant said the inmates' plight is an issue of human rights.

"Our sons and daughters are dying in prison," she said. "We should not stand by and let it happen."

Hollins said he and other County Council members are preparing a letter to Minner asking for an inquiry into prison conditions. He said he was appalled by conditions Delaware inmates face and called on other elected officials to demand an end to the "cruelty."

"How can we look the other way," he said. "We can do better. We shall do better. We will do better. And we are not going anywhere until we do better."

"We grieve every day"

Susie Wilson's son Jermaine was found Feb. 18, hanging from a bedsheet in the Delaware Correctional Center near Smyrna, eight days after a judge ordered his release. His clothes were stained with blood and there was a gash in the back of his head. His family insists he was murdered.

"Commissioner Taylor, Governor Minner, how can you sleep, when we grieve every day?" Wilson asked from the steps of Legislative Hall. "Where are the answers? Where are the people who have done this to our families? They need to be in prison."

Wilson said she tried to meet with prison officials to get answers about her son's death.

"Commissioner Taylor refused to meet with me. He said it's not part of his protocol," she said. "It's not part of my protocol to carry a baby for nine months, and then to have him die."

Francine Wright, whose son, Darnell Anderson, died of AIDS in January while serving a four-year drug sentence,

said doctors declined to talk to her about her son's condition during his final days at St. Francis Hospital.

"They robbed me of my time with my son," she said. "They should have let me talk to my son."

On the steps of Legislative Hall, just before the group marched to the governor's residence, the Rev. Mary Wood, associate pastor of the Canaan Baptist Church, led a prayer.

"God, we petition you to turn the hearts of kings," she said. "The heart of our governor is in your hands. We declare what is done in darkness is now in the light. Now we march for justice. We want justice now."

About 75 people marched for 15 minutes until they arrived at the governor's mansion, where two Capital Police officers met them at the end of the driveway. For about 15 minutes the marchers chanted and delivered their 10-point plan over a bullhorn.

Then they knelt in prayer.

"We're marching, an army of justice," Bullock said. "Bless this protest, bless this plan, bless these people, Lord."

Contact Esteban Parra at 324-2299 or eparra@delawareonline.com.
Contact investigative reporter Lee Williams at 324-2362 or lwilliams@delawareonline.com.

Wilmington community leader and Harley's cousin, Davis said he went to visit Harley over the weekend. "All I have are fond memories," Davis said he did not know what his cousin died of.

Harley died at St. Francis at 9:03 p.m., said Beth Welch, Delaware Department of Correction spokeswoman.

His body was released to the state Medical Examiner's Office. A cause of death was not released, but prison officials said foul play was not suspected.

Exhibit 1

B

Exhibit 1

only 100.

NOBODY CARES ABOUT THE PRISONERS: I am responding to an AP article which ran in the Delaware State News on Sunday, Aug. 28, titled "Del. inmate care doubted." To the families mentioned in the article, I share your grief. I also had a family member die in the Delaware Correctional Center. He, however, kept a diary of events that occurred while serving his time at the DOC, which probably should not have been included in the his personal property and released to the family, but it was overlooked; they goofed! I would like to quote one instance directly from that diary, and there are many more. "I requested to go to the infirmary complaining of pains in my head, once at the infirmary the male nurse said, 'there's nothing wrong with you, you're not staying here,' and instructed the guard to take me back to PT (pre-trial). The pain was the result of being kicked in the head and ribs by a CO. I was then put back in my cell." I have written letters to political figures, e-mailed the Attorney general's office and even e-mailed Stanley W. Taylor about the incident. No one bothered to return one communication. Bottom line, nobody wanted to get involved! The message I got was, "They're a prisoner; who cares?" I hope you have better luck than I did.

Exhibit 1



Anthony Pierce died of a brain tumor on March 22, 2002 — a growth a prison doctor initially called a cyst or in-grown hair.

Lawsuit: Suit was to go to trial in November

FROM PAGE A1

was most likely a cyst or an in-grown hair.

The tumor kept growing, though, and on March 22, 2002, Pierce died from a "brain tumor, due to osteosarcoma of the skull," according to an autopsy report.

On behalf of Pierce's estate and his daughter Sardia, Dover attorney Steve Hampton filed suit against CMS on Sept. 29, 2004. The lawsuit had been scheduled for a jury trial next month.

Hampton said Monday the case was "resolved to the satisfaction of all parties."

"We'll get the necessary court approvals and the case will be finalized," Hampton said.

In a story about the case published by The News Journal on Sept. 25, the first day of a four-day series on inmate health care, Ken Fields, a spokesman for CMS, said the company "vigorously" disputes the claims made by Hampton in the suit.

"We can affirmatively tell you that [Pierce] was seen frequently by health care staff that took his care seriously," Fields wrote in a statement faxed to The News Journal. "To view it retrospectively, using information that was not available to the caregivers at the time, takes this out of context."

Reached late Monday, Fields said: "I have no information on that particular matter; however health care providers often resolve litigation to avoid the ongoing cost of litigation and the resources that may be required to fight litigation."

Earlier this year, Delaware Correction Commissioner Stan Taylor awarded CMS a no-bid \$25.9 million contract to replace outgoing prison medical contractor First Correctional Medical of Tucson, Ariz. Gov. Ruth Ann Minner approved the deal, although she called the CMS deal an extension of the old contract.

Near the end of Pierce's life, the tumor stretched the skin around his face, pulling his right eye closed, causing muscle spasms and crippling pain.

Pierce's death was never reported to the public or to federal prison regulators by the Department of Correction because he was released to his family before brain cancer killed him.

Contact investigative reporter
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or lwilliams@delawareonline.com.

Contact Esteban Parra at 324-2299
or eparra@delawareonline.com.

Oct. 16, 2005

Guard: Prison chief 'disto

Veteran guard risks his career | Legionnaire's reported in Georgetown fac



Longtime prison guard Karl Paolini says corrections chief Stan Taylor "made us out to be the bad guys."

By LEE WILLIAMS and ESTEBAN PARRA
The News Journal

Karl Paolini has been a Delaware prison guard the past 16 years, and he was optimistic that problems highlighted in The News Journal's recent series would get immediate attention from state officials.

Rather than acknowledging the legitimate health care concerns, however, Paolini believes Correction Commissioner Stan Taylor "is distorting the truth" to shift public focus off the prisons.

"He's very good at spinning things to his advantage," Paolini said. "He will push it and push it until the public isn't interested in hearing about it anymore."

DELAWARE'S DEADLY PRISONS

Read the entire series at www.delawareonline.com

Paolini is so angered by Taylor's actions of recent weeks he said he is willing to risk his career to give the public a better understanding of what goes on behind prison walls. He argues that Taylor used the same tactics last year when chronic understaffing led to mandatory overtime for guards at several prisons, forcing some officers to work two or three eight-hour overtime shifts per week (forced overtime is still an issue for prison staff members).

When the guards balked, Paolini said, "Taylor called us unprofessional, saying we all

rting the truth'

ility | Taylor insists he does not spin stories

needed to pull together. He spun it and made us the bad guys."

Taylor denied that he tries to spin his way out of trouble. Instead, the commissioner said, "What I try to do is tell the whole story."

Paolini came forward after a six-month investigation by The News Journal highlighted AIDS-related inmate deaths and suicides over the past four years; allegations by inmates and former prison employees of poor medical treatment for cancer, meningitis and hepatitis; and a no-bid \$25.9 million contract awarded this year to St. Louis-based Correctional Medical Services to manage health care in the state's prisons.

See PRISONS — A11



Delaware Correction Commissioner Stan Taylor argues that he just tries to "tell the whole story."

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Taylor: Inmate's death

In response to suit, prison commissioner defends state agencies' probe of incident

By ESTEBAN PARRA
and LEE WILLIAMS
The News Journal

The February death of a 20-year-old inmate was a suicide and not a murder as a federal lawsuit alleges, Delaware's Department of Correction commissioner said Friday.

The civil suit, which was filed Thursday in U.S. District Court in Wilmington, claimed Jermaine Lamar Wilson was

murdered while being held at the Delaware Correctional Center near Smyrna. Wilson, who was serving a robbery sentence, was found hanging in his cell with a gash on his head.

His family says Wilson's clothes were delivered to them stained with blood.

He died Feb. 18, the day he was supposed to be released, family members said.

"The suicide of Jermaine Wilson was an unfortunate incident," Commissioner Stan Tay-

lor said in an e-mail Friday evening.

"The Department of Correction makes every effort to prevent suicide by offenders and will continue to do so. The DOC's Internal Affairs Unit, the Delaware State Police, the Medical Examiner's Office and the Attorney General's Office all conducted reviews and none determined that the cause of death was anything other than suicide."

Taylor did not comment on other allegations made in the wrongful death suit, which accuses corrections officials of confusing Wilson with another prisoner who had a similar

h suicide, not murder

name and claims they intentionally covered up the mistake.

The suit filed against nine prison officials, including Taylor, asks for an undisclosed amount of general and punitive damages.

"Because of the litigation, I am not able to comment further," Taylor's e-mail said.

The suit was filed on behalf of Wilson's mother, Susie Wilson, and his 2-year-old son.

The Rev. Christopher Bullock, a founding member of the Delaware Coalition for Prison Reform and Justice, said the group "is in full support of" Susie Wilson and encourages

DELAWARE'S DEADLY PRISONS

others to file litigation to get to the truth of many of the department's problems.

"If the state will not pay attention one way, there are other ways to get them to pay attention," said Bullock, pastor of Canaan Baptist Church in Wilmington.

Members formed the coalition following a series of News Journal articles pointing out a high rate of AIDS-related inmate deaths and suicides during the past four years.

In addition to asking for an

outside investigation of the prison system, the group has also requested a meeting with Taylor and Gov. Ruth Ann Minner to discuss prison issues. Neither Taylor nor Minner has responded to the request, Bullock said.

"We're getting to the point where we are tired of talking through the press," he said. "Let's come together and talk about the problems."

"We want to help find a resolution to these problems."

Contact Esteban Parra at 324-2299
or eparra@delawareonline.com.
Contact investigative reporter
Lee Williams at 324-2362
or lwilliams@delawareonline.com.

Exhibit 1

What you're saying

"I encourage community members to celebrate the many accomplishments this group has achieved, to stand up to show your support of their endeavors."

— Judy A. Sheldon of Dover

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has delighted crowds at numerous football games with their display of enthusiasm during halftime shows, music variety in the stands, and interesting choreography on the field.

It must be said that all of this could not have been achieved without the involvement of two fine band directors, Mr. Lenny Knight and Mr. Mark Crossley.

I encourage community members to celebrate the many accomplishments this group has achieved, to stand up to show your support of their endeavors. Certainly, do not distribute, nor pay any attention to, anonymous literature that only serves to demoralize our teenage musicians. Literature distributed at Friday night's game against Salesianum insults the integrity of the band and all of its supporters. Let's all preserve the traditions and the excellence of the Dover High School Band and maintain a collective, collaborative spirit.

It is time to truly live the philosophy ("to walk the talk") instilled at Dover High whether we are on or off the field by Dover's very own head football coach Carlton Brown, "One Team, One Family, One Family, One Team." Join the team.

Judy A. Sheldon
Dover

Panel should investigate prisons

EDITOR'S NOTE: The following

is the text of a letter delivered to members of the Delaware General Assembly on Monday, Oct. 3.

Recent reports in the local media have brought to light some very disturbing issues surrounding our prison system. This series of published and broadcast reports have raised questions for which we, as legislators, have an obligation to find answers, and produce change. It does not serve the common good for our prisons to be a breeding ground for disease that threatens our broader community, a bastion of inhumanity, and an even more dangerous place for those who serve in these facilities.

The fact is that these issues are not new, and that they are part of a disturbing timeline of what appears to be gross mismanagement of our corrections department. This leads me to the undeniable conclusion that we cannot continue to wait on the administration to adequately address this ongoing crisis. We need reform in our prison system and I am asking for your help.

The time for action is now, and I have personally witnessed bipartisan support within the General

Assembly for action.

I strongly believe that an Independent Investigative "Prison Commission" needs to be created. This commission would be made up of national and local corrections medical experts as well as members of our local medical community to investigate the conditions that have led to this series of horrific incidents and provide answers, so that we as leaders can provide results.

The time is now for leadership from both parties and both chambers to come together to create a panel free of politics who can thoroughly investigate and make timely recommendations on a number of issues including:

- inhumane treatment in our state's correction facilities
- lack of proper medical care in our state's correction facilities
- record suicide rates in our state's correction facilities
- record cases of AIDS/HIV in our state's correction facilities
- continued understaffing and forced overtime in our state's correction facilities
- "no-bid" contracts
- lack of accountability and oversight

The commission should complete its work and report back to the General Assembly by Jan. 18, 2006 — with firm recommendations for legislative action and oversight.

Timing is essential. We cannot afford to wait for another attack on a corrections officer, another suspicious death of an inmate, another dead baby, or a potential outbreak of life-threatening diseases.

Thank you for your time and attention to this matter.

Sincerely,

Charles L. Copeland

EDITOR'S NOTE: Charles L. Copeland, a Republican, represents the 4th Senatorial District in the Delaware State Senate. He can be reached at charles.copeland@state.de.us.

Share your opinion

The State News values your input and provides a variety of forums through which your opinion can be expressed.

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The Downstate Daily

3

Officer files suit against DOC

By Drew Volturo
Delaware State News

WILMINGTON — A female correction officer filed a federal lawsuit Wednesday against the state Department of Correction, alleging that she has been sexually and racially harassed and discriminated against for more than two years.

In a nine-page suit filed in U.S. District Court in Wilmington, Karen Brandewie, 41, of Georgetown, said co-workers and inmates have ridiculed her about rumors that she had appeared on a pornographic Web site.

In the suit, she said she has never appeared on a pornographic site on the Internet.

The suit also alleges that DOC officials were informed of the rumors and took no action to stop them.

The constant harassment from fellow correction officers and inmates has caused "pain, fear, humiliation, anxiety, depression, mental anguish, emotional distress, physical manifestation of

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anxiety and potential lost wages and lost benefits," the suit states.

Ms. Brandewie's attorney, Ronald Poliquin, could not be reached for comment Wednesday afternoon.

DOC spokeswoman Elizabeth Welch said the department had not been served with the suit Wednesday and would not comment.

According to the complaint, Ms. Brandewie began her career with DOC in November 2000 and worked at Delaware Correctional Center near Smyrna until November 2002, when she was transferred to Sussex Correctional

Institution near Georgetown.

Shortly after beginning at SCI, the suit states that a male correction officer "propositioned the plaintiff numerous times for sex. Specifically, he asked if she would have sex with him in the watchtower at the institution."

After being rebuffed several times by Ms. Brandewie, who was married, the male officer allegedly sent her an e-mail stating that she didn't like him because he wasn't black.

Ms. Brandewie is white.

"After the incident, rumors circulated around the institution that the plaintiff starred in a porno-

graphic Web site featuring her having sex with black men," the suit states.

An internal affairs investigation was conducted in 2003, but no actions were taken, the suit said.

In September 2004, Ms. Brandewie transferred to the Morris Correction Center in Dover, but the rumors followed her there.

The complaint states that in January, the state Department of Labor completed a yearlong investigation and issued a Notice of Right to Sue letter.

"The Department of Labor determined that there was reasonable cause to believe that an unlawful employment practice occurred," the suit states.

Ms. Brandewie is seeking monetary relief for emotional distress, pain, suffering and medical expenses and a directive to bring an end to DOC's "unlawful employment practices."

Post comments on this issue at newsblog.info/0407.

Staff writer Drew Volturo can be reached at 741-8296 or dvolturo@newszap.com.

Exhibit 1

The New

FRIDAY Dec. 2, 2005

Suit: Prison chief misled public

After inmate death, Taylor allegedly concealed confusion over similar names

By ESTEBAN PARRA and LEE WILLIAMS
The News Journal

A civil lawsuit filed Thursday on behalf of former inmate Jermaine Lamar Wilson alleges that Department of Correction officials confused Wilson with another prisoner who had a similar name — and that they intentionally covered up their mistake.

And 20-year-old Wilson was murdered while in state custody earlier this year, the lawsuit filed Thursday in U.S. District Court in Wilmington maintains. He did not commit suicide as prison officials have claimed, the wrongful death suit claims.

Prison officials say Jermaine Lamar Wilson hanged himself. His body was found Feb. 18, the day his mother said he was scheduled to be released from prison. The lawyer for Wilson's family, Wilmington Attorney Michael L. Sensor, claims in the lawsuit

DELAWARE'S DEADLY PRISONS
Read the entire lawsuit at www.delawareonline.com.

that the inmate was strangled to death in his cell last Feb. 18 at the hands of "persons unknown."

After Wilson's death, Sensor claims, the DOC "intentionally referred" to another inmate in the system — Jermaine Lamont Wilson — by his alias, Jermaine M. Wilson, "to conceal and obfuscate the fact that the two Jermaines were confused with each other," and that the wrong Jermaine was sent to maximum security at Delaware Correctional Center near Smyrna. Jermaine Lamar Wilson was in prison for robbery; Jermaine Lamont Wilson, 22, pleaded guilty to trafficking cocaine.

See LAWSUIT — A6



Susie Wilson, whose son was found hanged in prison, prays during a protest Oct. 3 in Dover. His death is now the focus of a lawsuit.

PHOTO BY AP/WIDEWORLD

A6 THE NEWS JOURNAL ••• THURSDAY, SEPT. 29, 2005

Prisons: Complaints often dismissed

FROM PAGE A1

In the past, Plant said, she has written letters to Taylor after hearing complaints from her constituents but has never received a response.

Plant said the department receives more than enough funding to provide adequate care. "We taxpayers pay around \$30,000 per year for each inmate. Where is the money going? They're ripping off the taxpayers."

Minner and Taylor did not return phone calls for comment.

In a written release to the newspaper, one of Minner's spokespersons wrote: "Providing quality health care services to an inmate population is a very demanding task and a very difficult service to deliver, but it is a program that Commissioner Taylor and the Governor have been working to improve for the past few years, and it will continue to be a priority in the years ahead."

Attorney General M. Jane Brady maintains an attorney-client relationship with the Department of Correction. "We are working with our client to determine what the facts are, to determine if further actions by this office are necessary," Brady said.

The Civil Rights Division of the U.S. Department of Justice is empowered to investigate conditions within local, state and federal prisons. The division can remedy problems through lawsuits or written agreements with prison officials.

U.S. Attorney for Delaware Colm F. Connolly said he's known since September 2004 — when a local defense attorney told him about poor medical care for a client — about allegations of mistreatment within Delaware's prison system.

"As a result of that complaint, we forwarded it to the Civil Rights Division in Washington," he said. "I've also forwarded the [News Journal] articles."

Sen. Margaret Rose Henry, D-Wilmington East, wants to lead a Senate investigation into prison conditions. She hopes to organize a diverse panel that will include legislators, health professionals, prison reform advocates, prison staff and local citizens. She believes such a group should find that "ses of"

ONLINE

Read the full series, watch video interviews, read autopsy reports and other documents and join in an online discussion at www.delawareonline.com.

cutting costs at the expense of patients' well-being," Smith said.

- Establish a health care inspector general. This person could be placed under the state Department of Health and So-

cial Services. This would be in keeping with the department's mission and their staff would have a greater degree of objective credibility than if they were employed by the Department of Correction, he said.

- Form a partnership with the Delaware health care community.

These medical professionals would come from Delaware health care facilities and the Medical Society of Delaware. This would help ensure that the

Department of Correction is meeting health care standards for prisoners. The society already has a prison health committee, but its role needs to be expanded so that Delaware's professional health care experts can have more of an impact than just providing commentary on prison health issues, Smith said.

- Start disease screening of new inmates.

- Test inmates for hepatitis or HIV.

2. Find the root cause of the breakdown in the health care system in our prisons, she said, and how it can be corrected.

Unlike Plant, Henry has confidence in Taylor.

"I think Stan needs a lot of assistance," she said. "He needs to be told that this is not acceptable."

Henry said she has visited Delaware prisons several times after hearing about complaints, but she was always told the incidents were isolated.

"I believe the entire system is in chaos."

During his failed campaign against Minner last year, Bill Lee said he would fire Taylor if elected. But Wednesday, Lee wasn't sure that was the best solution, saying Taylor was the most qualified person to ever hold that post.

"Taylor's inability to run the department correctly stems from Minner's administration, which doesn't deal with such problems as crowding, understaffed prison guards and medical care," Lee said. "She is not interested in taking care of problems."

Lee believes an investigation is needed, adding that Minner must recuse herself from it.

"I don't think the governor understands these subtleties," he said.

Sen. Charles L. Copeland, R-West Farms, who sits on the Public Safety committee, proposed "the creation of an independent investigation 'prison commission' made up of national and local corrections medical experts, including the Medical Society of Delaware, to

investigate the conditions that have led to this series of horrific incidents and provide answers so that we can provide results."

3. The panel should address, he said, among other things:

- inhumane treatment in the state's prisons
- lack of proper medical care
- continued understaffing and forced overtime
- no-bid contracts
- lack of accountability and oversight.

Copeland said the Minner administration has failed to answer questions and it is time for the Legislature to create laws forcing the Department of Correction to do their job properly.

Copeland said he has received calls from inmate families complaining of problems in the prison. But when he has checked, prison officials have assured him each complaint was an "isolated event."

"That's the Legislature's fault for not having an oversight mechanism," he said.

Smith does not want the federal government coming in to take over the state prisons. "The threat of federal oversight and control ... ought to be taken very seriously," he said.

Smith issued a list of proposed changes:

- Switch to "cost-plus" contracts to eliminate a company's incentive to maximize profits.

"If state oversight is lacking, this motivation could result in

09/29/05

Exhibit 1

Oct. 9, 2005

**DELAWARE'S
DEADLY PRISONS****Inmates
risk new
strains of
infections****Prison bacteria
resist antibiotics**By ESTEBAN PARRA
and LEE WILLIAMS
The News Journal

Mark Stewart is afraid of infecting his fiancée and friends in southern Delaware's network of small, quiet communities.

A 45-year-old convicted drug user, Stewart is a likely carrier of a virulent bacteria called methicillin-resistant staphylococcus aureus, or MRSA, which can lead to infection by flesh-eating bacteria. He believes he contracted MRSA inside prison in Delaware, where he spent six months recently on a probation violation. In that stay behind bars, Stewart was exposed to bacteria by a cellmate who burst his own un-



Convict Mark
Stewart was

treated for
MRSA and
probably re-
mains a carrier.

INSIDE

Prison problems
could become
election issue. A9

ONLINE

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series at
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reated boils.
Soon after, a
spot on
Stewart's
scalp
swelled into
a bump.

In a let-
ter dated
last month,
Stewart's
doctor
warned
prison offi-
cials about
the condi-
tion and the

potential for its spread to
other probationers during
Stewart's weekly visits to the
Sussex Violation of Probation
Center in Georgetown.

"Mark did have an MRSA
infection," Dr. Stephen D.
Carey wrote in a letter Stewart
said he delivered to Robert I.
George, the Sussex Commu-
nity Corrections Center's war-
den. "He is likely now to be a
carrier of that bacteria. The
implications of this to your or-
ganization are to be deter-
mined by yourselves, however,
he is again a carrier of the me-
thicillin-resistant staphylo-
coccus aureus infection."

"I don't want to endanger
anyone," said Stewart, who
was diagnosed in May with the
antibiotic-resistant condition.
The Blades resident had more
than 2 inches of skin removed

See BACTERIA — A8

HIGHS LOWS

PENN STATE, WESLEY WIN
BLUE HENS, HORNETS FALL



Exhibit 1

Su

Oct. 30, 2005

Counselor: I was order

DELAWARE'S DEADLY PRISONS

A recent six-month investigation in The News Journal highlighted AIDS-related inmate deaths and suicides over the past four years; allegations of poor medical treatment; and a no-bid \$25.9 million contract awarded this year to St. Louis-based Correctional Medical Services to manage health care. Prompted in part by the newspaper's series, the U.S. Department of Justice's Civil Rights Division has launched a preliminary inquiry into the Department of Correction's management and inmate health care. Read more at www.delawareonline.com.



Denise Rodriguez
worked for
CMS from
1999 to 2002.

Ex-worker says she w

By LEE WILLIAMS
and ESTEBAN PARRA
The News Journal

A former drug and alcohol counselor who worked for Correctional Medical Services at Gander Hill prison claims company officials ordered her to falsify documents so state inspectors would not pull the company's license to run a prison treatment program. Denise Rodriguez, who worked

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red to falsify inmate files

ould have been fired if she hadn't fabricated entries before inspections

for Correctional Medical Services at the prison's drug and alcohol treatment program from 1999 to 2002, said she would have been fired if she refused orders to fabricate entries contained in inmate files.

"I was told to do progress notes on people who were not my clients," said Rodriguez, now a substance abuse counselor at the Latin American Community Cen-

ter in Wilmington. "I told them I didn't want to falsify the charts."

The order, she said, came from a supervisor at CMS, one of the largest correctional health care companies in the country.

"I received a chart that wasn't touched for four months," Rodriguez said. "I was told to 'catch the chart up' using previous statements from the client."

If an inmate had admitted a co-

caine addiction, for example, Rodriguez said she was told to write that the client was making progress overcoming the problem — without ever talking to the inmate about the addiction. Other documents were back-dated or altered with correction fluid, she claims.

Rodriguez, a 37-year-old mother of three, said she decided

See PRISONS — A8

Exhibit 1

Ex-counselor says she was told to falsify data

Associated Press

WILMINGTON — A former drug and alcohol counselor who worked for Correctional Medical Services at Gander Hill prison claims company officials ordered her to falsify documents.

Denise Rodriguez says the orders came so state inspectors would not pull the company's license to run a prison treatment program.

Rodriguez, who worked for Correctional Medical Services at the prison's drug and alcohol treatment program from 1999 to 2002, said she would have been fired if she refused orders to fabricate entries contained in inmate files.

"I was told to do progress notes on people who were not

my clients," Rodriguez, now a substance abuse counselor at the Latin American Community Center, said. "I told them I didn't want to falsify the charts."

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If an inmate had admitted a cocaine addiction, for example, Rodriguez said she was told to write that the client was making progress overcoming the problem — without ever talking to the inmate about the addiction. Other documents were backdated or altered with correction

fluid, she claims.

Rodriguez, a 37-year-old mother of three, said she decided to talk about her work at Gander Hill after reading a series of news stories detailing problems with the delivery of health care to inmates in Delaware.

The St. Louis-based CMS no longer runs the drug and alcohol program, called Key, but last July received a \$25.9 million no-bid contract to provide health care for the more than 6,600 inmates in Delaware's prison system.

Lucian Gambino, Rodriguez's former supervisor, said when he worked in the prison he was aware counselors were updating records at a furious pace and that other supervisors ordered the changes. Gam-

bino worked in the Key program from December 2001 to December 2002.

"I knew our people were trying to update records that were very delinquent, that had not gotten through the previous state licensure, or for some reason were just not completed at all," Gambino said. "The pressure on all of us was really great. We had lots of catch-up work to do. We had work that had not been done by folks from previous years."

Gambino, however, said he never personally ordered anyone to do anything wrong. He, too, was acting under orders from the same CMS official named by Rodriguez, he said.


When contacted, that official declined to comment.

CERTIFICATE OF SERVICE

I HERE BY certify that on March 14 2006 mailed by
UNITED STATES POSTAL SERVICE a copy of A REPLY TO DEFENDANTS OPPOSITION
TO PLAINTIFFS MOTION TO AMEND (di39) to the following parties /party
at the below address

LISA BARCHI
Deputy Attorney General
Department of Justice
820N. French Street 6th floor
Wilmington DEL 19801

DATE March 14 2006


MONTY PEPPER
DELAWARE CORRECTIONAL CENTER
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Department of Justice
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DATE March 14 2006



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